

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FILED

UNITED STATES

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'07 MAY 21 A9:44
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v.

CLERK
U.S. DISTRICT COURT

NO. 05-12 Erie

SHAUN BENNAFIELD

Motion for default judgment

Now comes, Shaun Bennafield, petitioning the Court to enter a default judgment against the prosecution for failure to comply with the Court's order/deadline of April-16- 2007.

The defendant contends that the Court ordered the prosecution to respond to the defendants 28 U.S.C. 2255 by April 16, 2007, but the prosecution has failed to respond. Also, the prosecution has failed to provide an explanation for non compliance with the courts order; furthermore, the defendant's evidence is satisfactory enough to establish his claims that are on his 2255.

The defendant maintains that rule 55(e) does not relieve the prosecution from the duty to defend this case or obey the court's order. Rule 55(a) would be the appropriate sanction to be imposed were failure to file answer, together with failure to comply with court's order, and failure to provide an explanation has been proven against the prosecution. Reynolds v. United States, 192 F.2d 987, 998(3rd Cir).

CONCLUSION

The defendant contends that his evidence has establish his claims on his 2255. Thus, this court should enter a default judgment against the prosecution for all the reasons mentioned above, and to prevent this unfair delay that has made the defendant pay more legal and paralegal fees.

Respectfully

Shaun Bennafield
SHAUN BENNAFIELD

Certificate of Service

I Shaun Bennafield swear that a copy of this motion was sent to the person below by first class mail on 5-11-07

Marshall J. Piccinini
U.S. Attorney's Office
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17 South Park Row
Erie, PA 16501

Respectfully

Shaun Bennafield 5-11-07
SHAUN BENNAFIELD